

ORDINANCE NO. 46-2008

AN ORDINANCE ESTABLISHING ENHANCED ENFORCEMENT MECHANISMS  
FOR COMPULSORY SCHOOL ATTENDANCE

WHEREAS, THE City of Montgomery recognizes a growing problem in the enforcement of compulsory school attendance of school age children in the City of Montgomery; and

WHEREAS, unexcused absences from school result in a loss of state and federal funding to public schools in the City of Montgomery; and

WHEREAS, children who are absent from school and otherwise unattended by a responsible adult are exposed to unsafe and sometimes criminal activities and influences; and

WHEREAS, the state truancy laws are limited in the terms and conditions under which enforcement may be undertaken, and provide an enforcement system which is less effective because of the number of agencies and people involved in the enforcement process; and

WHEREAS, THE City Council of the City of Montgomery wishes to create a more streamlined mechanism for the enforcement of the state mandated compulsory attendance of school age children at primary and secondary schools.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE  
CITY OF MONTGOMERY, ALABAMA, as follows:

Section 1. Compulsory Attendance

A. Every child between the ages of seven and sixteen years shall be required to attend a public school, private school, church school, or be instructed by a competent private tutor, or in an authorized home school, all as defined in 16-28-et. Seq. of the Alabama Code of 1975 (hereinafter referred to as the Alabama Compulsory School Attendance Law). Each child shall be required to be in attendance at one of the said schools or in a tutorial session during school hours on each day that the school is in service during the entire school term in every scholastic year unless the child is specifically exempted under the Alabama Compulsory School Attendance Law, or the child's absence is excused for that particular day in accordance with the said law.

B. While in attendance at a public school, each child between the ages of seven and sixteen years shall be required to conduct himself or herself in accordance with the written policy on school behavior which has been most recently adopted by

the Montgomery County Board of Education as required by 16-28-12(b) of the Alabama Code of (1975).

## Section 2. Prosecution

A. One or more parents, legal guardians, or custodians of any child who is found to be in violation of Section 1 on five or more school days in a school year shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars (\$100.00), or imprisonment for up to seven (7) days or by both the said fine and imprisonment. Prosecution for student misbehavior may proceed only for violations of the Montgomery Public Schools Code of Student Behavior that list suspension as a possible sanction.

B. Prosecution hereunder shall be initiated by sworn complaint before a magistrate of the Montgomery Municipal Court. No prosecution or proceeding under this article shall be begun except by one of the following parties:

- (1) The county superintendent of education or city superintendent of schools where the matter affects a school or private tutor in territory under his supervision: or
- (2) An attendance officer: or
- (3) The principal teacher of the school which the child attends or should attend: or
- (4) The private tutor by whom the child is instructed or should be instructed: or
- (5) The probation officer of the county: or
- (6) A duly authorized agent of the State Superintendent of Education or the Department of Human Resources, all as defined in Alabama Code Section 16-28-22.

C. Prosecution hereunder shall be carried out before the Montgomery Municipal Court in the same manner as prosecution for all other misdemeanors therein.

D. A showing by parent or legal guardian against whom a prosecution is undertaken that the truant child is exempt from the Alabama Compulsory School Attendance Law under Section 16-28-6 of the Alabama Code of 1975 shall operate as a defense to a finding of guilt hereunder. Any and all defenses to prosecution under the Alabama Compulsory School Attendance Law listed in Section 16-28-13, or elsewhere in the said law, shall operate as a defense to a finding of guilt hereunder.

## Section 3. Truants

It shall be the duty of an attendance officer, probation officer, or other officer authorized to execute writs of arrest, to take into custody without warrant any child required to attend school or be instructed by a private tutor by this ordinance or the Alabama Compulsory Attendance Law who is found away from said school or tutor

during school hours or who is not, at the time of discovery, either in their home or in the custody of the person having control of said child. Such child shall forthwith be delivered to the person having control of said child or to a facility operated by the Montgomery County Board of Education for the purpose of taking custody of truants until such time as the person having control of the said child can be ascertained. For the purposes of this ordinance, the person having control of a child shall be a parent, legal guardian, or the principal teacher or tutor from which a child is truant.

ADOPTED this the 16<sup>th</sup> day of September, 2008.

APPROVED: 9/19/08

  
BOBBY N. BRIGHT, MAYOR

ATTEST:

  
BRENDA GALE BLALOCK, CITY CLERK